

AMENDED IN SENATE JUNE 1, 2015  
AMENDED IN SENATE APRIL 14, 2015  
AMENDED IN SENATE MARCH 17, 2015

**SENATE BILL**

**No. 128**

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**Introduced by Senators Wolk and Monning**  
**(Principal coauthors: Senators Jackson and Leno)**  
(Principal coauthors: Assembly Members Alejo and Eggman)  
**(Coauthors: Senators Block, Hall, Hancock, Hernandez, Hill,**  
**McGuire, and Wieckowski)**  
(Coauthors: Assembly Members Chu, Cooper, Frazier, Cristina Garcia,  
*Low*, Quirk, Rendon, and Mark Stone)

January 20, 2015

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An act to add Part 1.85 (commencing with Section 443) to Division 1 of the Health and Safety Code, relating to end of life.

LEGISLATIVE COUNSEL'S DIGEST

SB 128, as amended, Wolk. End of life.

Existing law authorizes an adult to give an individual health care instruction and to appoint an attorney to make health care decisions for that individual in the event of his or her incapacity pursuant to a power of attorney for health care.

This bill would enact the End of Life Option Act authorizing an adult who meets certain qualifications, and who has been determined by his or her attending physician to be suffering from a terminal disease, as defined, to make a request for ~~medication~~ *a drug* prescribed pursuant to these provisions for the purpose of ending his or her life. The bill would establish the procedures for making these requests. The bill would also establish the forms to request ~~aid-in-dying medication~~ *an*

*aid-in-dying drug* and, under specified circumstances, an interpreter declaration to be signed subject to penalty of perjury, thereby imposing a crime and state-mandated local program. *This bill would require specified information to be documented in the individual's medical record, including, among other things, all oral and written requests for an aid-in-dying drug.*

This bill would prohibit a provision in a contract, will, or other agreement from being conditioned upon or affected by a person making or rescinding a request for the above-described ~~medication~~ *drug*. The bill would prohibit the sale, procurement, or issuance of any life, health, or accident insurance or annuity policy, health care service plan, contract, or health benefit plan, or the rate charged for any policy or plan contract, from being conditioned upon or affected by the request. The bill would prohibit an insurance carrier from providing any information in communications made to an individual about the availability of ~~aid-in-dying medication~~ *an aid-in-dying drug* absent a request by the individual, his or her attending physician at the behest of the individual, or the individual's designee. The bill would also prohibit any communication from containing both the denial of treatment and information as to the availability of ~~aid-in-dying medication~~ *drug* coverage.

This bill would provide immunity from ~~civil or criminal~~ *civil, criminal, administrative, employment, or contractual* liability or professional disciplinary action for participating in good faith compliance with the act, and would specify that the immunities and prohibitions on sanctions of a health care provider are solely reserved for conduct provided for by the bill. The bill would provide that participation in activities authorized pursuant to this bill shall be voluntary. The bill would authorize a health care provider to prohibit its employees, independent contractors, or other persons or entities, including other health care providers, from participating in activities under this act while on the premises owned or under the management or direct control of that prohibiting health care provider, or while acting within the course and scope of any employment by, or contract with, the prohibiting health care provider.

This bill would make it a felony to knowingly alter or forge a request for ~~medication~~ *drugs* to end an individual's life without his or her authorization or to conceal or destroy a *withdrawal or* rescission of a request for ~~medication~~ *a drug*, if it is done with the intent or effect of causing the individual's death. The bill would make it a felony to

knowingly coerce or exert undue influence on an individual to request ~~medication~~ *a drug* for the purpose of ending his or her life or to destroy a *withdrawal or* rescission of a request. By creating a new crime, the bill would impose a state-mandated local program. The bill would provide that nothing in its provisions *is to* be construed to authorize ending a patient's life by lethal injection, mercy killing, or active euthanasia, and would provide that action taken in accordance with the act shall not constitute, among ~~others~~, *other things*, suicide or homicide.

This bill would require the State Public Health Officer to adopt regulations establishing additional reporting requirements for physicians and pharmacists to determine the use of, and compliance with, the act, and would require the ~~state~~ *State* Public Health Officer to annually review a sample of certain records and the State Department of Public Health to make a statistical report of the information collected.

~~This bill would require specified information to be documented in the individual's medical record, including, among other things, all oral and written requests for aid-in-dying medication.~~

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Part 1.85 (commencing with Section 443) is  
2 added to Division 1 of the Health and Safety Code, to read:

3

4 PART 1.85. END OF LIFE OPTION ACT

5

6 443. This part shall be known and may be cited as the End of  
7 Life Option Act.

1 443.1. As used in this part, the following definitions shall apply:

2 (a) “Adult” means an individual 18 years of age or older.

3 (b) ~~“Aid-in-dying medication”~~ *drug* means ~~medication~~ *a drug*  
4 determined and prescribed by a physician for a qualified individual,  
5 which the qualified individual may choose to self-administer to  
6 bring about his or her death due to a terminal disease.

7 (c) “Attending physician” means the physician who has primary  
8 responsibility for the health care of an individual and treatment of  
9 the individual’s terminal disease.

10 (d) ~~“Competent”~~ *“Capacity to make medical decisions”* means  
11 that, ~~in the opinion of a court or~~ in the opinion of an individual’s  
12 attending physician, consulting physician, psychiatrist, or  
13 psychologist, ~~the individual has pursuant to Section 4609 of the~~  
14 *Probate Code, the individual has the ability to understand the*  
15 *nature and consequences of a health care decision, the ability to*  
16 *understand its significant benefits, risks, and alternatives, and the*  
17 *ability to make and communicate an informed decision to health*  
18 *care providers, including communication through a person familiar*  
19 *with the individual’s manner of communicating, if that person is*  
20 *available.*

21 (e) “Consulting physician” means a physician *who is*  
22 *independent from the attending physician and* who is qualified by  
23 specialty or experience to make a professional diagnosis and  
24 prognosis regarding an individual’s terminal disease.

25 (f) ~~“Counseling” means one or more consultations, as necessary,~~  
26 ~~between an individual and a psychiatrist or psychologist licensed~~  
27 ~~in this state for the purpose of determining that the individual is~~  
28 ~~competent and is not suffering from a psychiatric or psychological~~  
29 ~~disorder or depression causing impaired judgment.~~

30 ~~(g)~~

31 (f) “Department” means the State Department of Public Health.

32 (g) *“End of Life Option Act Checklist” means a checklist*  
33 *identifying each and every requirement that must be fulfilled by a*  
34 *health care provider to be in good faith compliance with the End*  
35 *of Life Option Act should the health care provider choose to*  
36 *participate.*

37 (h) “Health care provider” or ~~“provider”~~ means ~~a person~~  
38 ~~licensed, certified, or otherwise authorized or permitted by law to~~  
39 ~~administer health care or dispense medication in the ordinary~~  
40 ~~course of business or practice of a profession, including, but not~~

1 ~~limited to, physicians, doctors of osteopathy, and pharmacists.~~  
2 ~~“Health care provider” or “provider” includes a health care facility~~  
3 ~~as identified in Section 1250. “provider of health care” means~~  
4 ~~any person licensed or certified pursuant to Division 2~~  
5 ~~(commencing with Section 500) of the Business and Professions~~  
6 ~~Code; any person licensed pursuant to the Osteopathic Initiative~~  
7 ~~Act or the Chiropractic Initiative Act; any person certified pursuant~~  
8 ~~to Division 2.5 (commencing with Section 1797) of this code; and~~  
9 ~~any clinic, health dispensary, or health facility licensed pursuant~~  
10 ~~to Division 2 (commencing with Section 1200) of this code.~~

11 (i) “Informed decision” means a decision by an individual with  
12 a terminal disease to request and obtain a prescription for  
13 ~~medication~~ *a drug* that the individual may self-administer to end  
14 the individual’s life, that is based on an understanding and  
15 acknowledgment of the relevant facts, and that is made after being  
16 fully informed by the attending physician of all of the following:

17 (1) The individual’s medical diagnosis and prognosis.  
18 (2) The potential risks associated with taking the ~~medication~~  
19 *drug* to be prescribed.  
20 (3) The probable result of taking the ~~medication~~ *drug* to be  
21 prescribed.

22 (4) The possibility that the individual may choose not to obtain  
23 the ~~medication~~ *drug* or may obtain the ~~medication~~ *drug* but may  
24 decide not to ~~take~~ *ingest* it.

25 (5) The feasible alternatives or additional treatment  
26 opportunities, including, but not limited to, comfort care, hospice  
27 care, palliative care, and pain control.

28 (j) “Medically confirmed” means the medical ~~opinion~~ *diagnosis*  
29 *and prognosis* of the attending physician has been confirmed by  
30 a consulting physician who has examined the individual and the  
31 individual’s relevant medical records.

32 (k) “Mental health specialist assessment” means *one or more*  
33 *consultations between an individual and a mental health specialist*  
34 *for the purpose of determining that the individual has the capacity*  
35 *to make medical decisions and is not suffering from impaired*  
36 *judgment due to a mental disorder.*

37 (l) “Mental health specialist” means *a psychiatrist or a licensed*  
38 *psychologist.*

39 ~~(k)~~

1 (m) “Physician” means a doctor of medicine or osteopathy  
2 currently licensed to practice medicine in this state.

3 ~~-(l)~~

4 (n) “Public place” means any street, alley, park, public building,  
5 any place of business or assembly open to or frequented by the  
6 public, and any other place that is open to the public view, or to  
7 which the public has access.

8 ~~-(m)~~

9 (o) “Qualified individual” means ~~a competent adult who~~ *an*  
10 *adult who has the capacity to make medical decisions and* is a  
11 resident of California and has satisfied the requirements of this  
12 part in order to obtain a prescription for ~~medication~~ *a drug* to end  
13 his or her life.

14 ~~-(n)~~

15 (p) “Self-administer” means a qualified individual’s affirmative,  
16 conscious, and physical act of ~~using~~ *ingesting* the ~~medication~~  
17 *aid-in-dying drug* to bring about his or her own death.

18 ~~-(o)~~

19 (q) “Terminal disease” means an incurable and irreversible  
20 disease that has been medically confirmed and will, within  
21 reasonable medical judgment, result in death within six months.

22 443.2. (a) ~~A competent, qualified individual who is an adult~~  
23 *with the capacity to make medical decisions and with a terminal*  
24 *disease may make a request to receive a prescription for*  
25 ~~aid-in-dying medication~~ *an aid-in-dying drug* if all of the following  
26 conditions are satisfied:

27 (1) ~~The qualified individual’s attending physician has~~  
28 ~~determined~~ *diagnosed* the individual ~~to be suffering from~~ *with* a  
29 terminal disease.

30 (2) ~~The qualified individual~~ has voluntarily expressed the wish  
31 to receive a prescription for ~~an aid-in-dying medication.~~ *drug.*

32 (3) ~~The qualified individual~~ is a resident of California and is  
33 able to establish residency through any of the following means:

34 (A) Possession of a California driver license or other  
35 identification issued by the State of California.

36 (B) Registration to vote in California.

37 (C) Evidence that the person owns or leases property in  
38 California.

39 (D) Filing of a California tax return for the most recent tax year.

1     (4) ~~The qualified individual documents his or her request~~  
2     pursuant to the requirements set forth in Section 443.3.

3     (5) *The individual has the physical and mental ability to*  
4     *self-administer the aid-in-dying drug.*

5     (b) ~~A person may not qualify~~ *shall not be considered a*  
6     *“qualified individual”* under the provisions of this part solely  
7     because of age or disability.

8     (c) ~~A request for a prescription for aid-in-dying medication an~~  
9     *aid-in-dying drug* under this part *shall be made solely and directly*  
10    *by the individual diagnosed with the terminal disease and shall*  
11    not be made on behalf of the ~~patient~~ *patient, including, but not*  
12    *limited to,* through a power of attorney, an advance health care  
13    directive, ~~or a conservator.~~ *a conservator; health care agent,*  
14    *surrogate, or any other legally recognized health care*  
15    *decisionmaker.*

16    443.3. (a) ~~A qualified~~ *An individual wishing to receive seeking*  
17    *to obtain a prescription for aid-in-dying medication an aid-in-dying*  
18    *drug* pursuant to this part shall submit two oral requests, a  
19    minimum of 15 days apart, and a written request to his or her  
20    attending physician. The attending physician ~~must~~ *shall directly,*  
21    *and not through a designee,* receive all three requests required  
22    pursuant to this section.

23    (b) A valid written request for ~~aid-in-dying medication an~~  
24    *aid-in-dying drug* under subdivision (a) shall meet all of the  
25    following conditions:

26    (1) The request shall be in substantially the form described in  
27    Section 443.9.

28    (2) The request shall be signed and dated, in the presence of  
29    two witnesses in accordance with paragraph (3), by the ~~qualified~~  
30    ~~individual~~ *individual seeking the medication. aid-in-dying drug.*

31    (3) The request shall be witnessed by at least two other adult  
32    persons who, in the presence of the ~~qualified~~ individual, shall attest  
33    that to the best of their knowledge and belief *that the qualified*  
34    individual is all of the following:

35    (A) ~~Competent.~~ *A person who has the capacity to make medical*  
36    *decisions.*

37    (B) Acting voluntarily.

38    (C) Not being coerced to *make or* sign the request.

39    (c) Only one of the two witnesses at the time the written request  
40    is signed may:

(1) Be related to the qualified individual by blood, marriage, *registered domestic partnership*, or adoption or be entitled to a portion of the ~~person's~~ *individual's* estate upon death.

(2) Own, operate, or be employed at a health care facility where the ~~qualified~~ individual is receiving medical treatment or resides.

(d) The attending ~~physician~~ *physician, consulting physician, or mental health specialist* of the ~~qualified~~ individual shall not be one of the witnesses required pursuant to paragraph (3) of subdivision (b).

443.4. (a) ~~A qualified~~ *An individual* may at any time *withdraw* or rescind his or her request for ~~aid-in-dying medication~~ *an aid-in-dying drug*, or *decide not to ingest an aid-in dying drug*, without regard to the ~~qualified~~ individual's mental state.

(b) A prescription for ~~aid-in-dying medication~~ *an aid-in-dying drug* provided under this part may not be written without the attending physician *directly, and not through a designee*, offering the ~~qualified~~ individual an opportunity to *withdraw* or rescind the request.

443.5. (a) Before ~~prescribing aid-in-dying medication~~, *an aid-in-dying drug*, the attending physician shall do all of the following:

(1) Make the initial determination of all of the following:

(A) (i) Whether the requesting adult ~~is competent~~ *has the capacity to make medical decisions*.

(ii) *If there are indications of a mental disorder, the physician shall refer the individual for a mental health specialist assessment.*

(iii) *If a mental health specialist assessment referral is made, no aid-in-dying drugs shall be prescribed until the mental health specialist determines that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.*

(B) Whether the requesting adult has a terminal disease.

(C) Whether the requesting adult has voluntarily made the request for ~~aid-in-dying medication~~ *an aid-in-dying drug* pursuant to Sections 443.2 and 443.3.

(D) Whether the requesting adult is a qualified individual pursuant to subdivision (m) of Section 443.1.

(2) ~~Ensure the qualified~~ *Confirm that the* individual is making an informed decision by discussing with him or her all of the following:



1 (A) His or her medical diagnosis and prognosis.

2 (B) The potential risks associated with ~~taking~~ *ingesting* the  
3 ~~requested aid-in-dying medication to be prescribed.~~ *drug*.

4 (C) The probable result of ~~taking~~ *ingesting* the aid-in-dying  
5 ~~medication to be prescribed.~~ *drug*.

6 (D) The possibility that he or she may choose to obtain the  
7 aid-in-dying ~~medication~~ *drug* but not take it.

8 (E) The feasible alternatives or additional treatment  
9 ~~opportunities;~~ *options*, including, but not limited to, comfort care,  
10 hospice care, palliative care, and pain control.

11 (3) Refer the ~~qualified~~ individual to a consulting physician for  
12 medical confirmation of the diagnosis and prognosis, and for a  
13 determination that the ~~qualified individual is competent~~ *individual*  
14 *has the capacity to make medical decisions* and has complied with  
15 the provisions of this part.

16 ~~(4) Refer the qualified individual for counseling if appropriate.~~  
17 ~~No aid-in-dying medication shall be prescribed until the person~~  
18 ~~performing the counseling determines that the patient is not~~  
19 ~~suffering from a psychiatric or psychological disorder or depression~~  
20 ~~causing impaired judgment.~~

21 ~~(5) Ensure~~

22 (4) *Confirm* that the qualified individual's request does not  
23 arise from coercion or undue influence by another person by  
24 discussing with the qualified individual, outside of the presence  
25 of any other persons, whether or not the qualified individual is  
26 feeling coerced or unduly influenced by another person.

27 ~~(6)~~

28 (5) Counsel the qualified individual about the importance of all  
29 of the following:

30 (A) Having another person present when he or she ~~takes~~ *ingests*  
31 the aid-in-dying ~~medication~~ *drug* prescribed pursuant to this part.

32 (B) Not ~~taking~~ *ingesting* the aid-in-dying ~~medication~~ *drug* in a  
33 public place.

34 (C) Notifying the next of kin of his or her request for  
35 ~~aid-in-dying medication.~~ *an aid-in-dying drug*. A qualified  
36 individual who declines or is unable to notify next of kin shall not  
37 have his or her request denied for that reason.

38 (D) Participating in a hospice program.

39 (E) *Maintaining the aid-in-dying drug in a safe and secure*  
40 *location until the time that the qualified individual will ingest it.*

- 1     ~~(7)~~  
2     (6) Inform the ~~qualified~~ individual that he or she may *withdraw*  
3     or rescind the request for ~~aid-in-dying medication~~ *an aid-in-dying*  
4     *drug* at any time and in any manner.  
5     ~~(8)~~  
6     (7) Offer the ~~qualified~~ individual an opportunity to *withdraw*  
7     or rescind the request for ~~aid-in-dying medication~~ *an aid-in-dying*  
8     *drug* before prescribing the ~~aid-in-dying medication~~ *drug*.  
9     ~~(9)~~  
10    (8) Verify, immediately prior to writing the prescription for  
11    ~~aid-in-dying medication~~ *drug*, that the qualified individual is  
12    making an informed decision.  
13    ~~(10) Ensure~~  
14    (9) *Confirm* that all *requirements are met and all* appropriate  
15    steps are carried out in accordance with this part before writing a  
16    prescription for ~~aid-in-dying medication~~ *an aid-in-dying drug*.  
17    ~~(11)~~  
18    (10) Fulfill the record documentation required under Sections  
19    ~~443.16 and 443.19~~ *443.7 and 443.17*.  
20    (11) *Complete the End of Life Option Act Checklist and include*  
21    *it in the individual's medical record.*  
22    (b) If the conditions set forth in subdivision (a) are satisfied,  
23    the attending physician may deliver the ~~aid-in-dying medication~~  
24    *drug* in any of the following ways:  
25    (1) ~~Dispense—aid-in-dying—medications—~~*Dispensing the*  
26    *aid-in-dying drug* directly, including ancillary medication intended  
27    to minimize the qualified individual's discomfort, if the attending  
28    physician meets all of the following criteria:  
29    (A) Is authorized to dispense medicine under California law.  
30    (B) Has a current United States Drug Enforcement  
31    Administration (USDEA) certificate.  
32    (C) Complies with any applicable administrative rule or  
33    regulation.  
34    (2) With the qualified individual's written consent, ~~the attending~~  
35    ~~physician may contact~~ *contacting* a pharmacist, ~~inform~~ *informing*  
36    the pharmacist of the prescriptions, and ~~deliver~~ *delivering* the  
37    written prescriptions personally, by mail, or electronically to the  
38    pharmacist, who may dispense the ~~medications~~ *drug* to the qualified  
39    individual, the attending physician, or a person expressly

1 designated by the qualified individual and with the designation  
2 delivered to the pharmacist in writing or verbally.

3 (c) Delivery of the dispensed ~~medication~~ *drug* to the qualified  
4 individual, the attending physician, or a person expressly  
5 designated by the qualified individual may be made ~~by:~~ *by* personal  
6 delivery, ~~or, with a signature required on delivery, by~~ United Parcel  
7 Service, United States Postal Service, Federal Express, or by  
8 messenger ~~service with a signature required at delivery:~~ *service.*

9 443.6. Prior to a qualified individual obtaining ~~aid-in-dying~~  
10 ~~medication~~ *an aid-in-dying drug* from the attending physician, the  
11 consulting physician shall perform all of the following:

12 (a) Examine the ~~qualified~~ individual and his or her relevant  
13 medical records.

14 (b) Confirm in writing the attending physician's diagnosis and  
15 prognosis.

16 (c) ~~Verify, in the opinion of the consulting physician, that the~~  
17 ~~qualified individual is competent,~~ *Determine that the individual*  
18 *has capacity to make medical decisions, is acting voluntarily, and*  
19 *has made an informed decision.*

20 (d) *If there are indications of a mental disorder, the consulting*  
21 *physician shall refer the individual for a mental health specialist*  
22 *assessment.*

23 ~~(d)~~

24 (e) Fulfill the record documentation required under ~~Sections~~  
25 ~~443.16 and 443.19:~~ *this part.*

26 443.7. ~~(a) Unless otherwise prohibited by law, the attending~~  
27 ~~physician may sign the qualified individual's death certificate.~~

28 ~~(b) The cause of death listed on the death certificate of an~~  
29 ~~individual who uses aid-in-dying medication shall be the underlying~~  
30 ~~terminal disease.~~

31 443.7. *All of the following shall be documented in the*  
32 *individual's medical record:*

33 (a) *All oral requests for aid-in-dying drugs.*

34 (b) *All written requests for aid-in-dying drugs.*

35 (c) *The attending physician's diagnosis and prognosis, and the*  
36 *determination that a qualified individual has the capacity to make*  
37 *medical decisions, is acting voluntarily, and has made an informed*  
38 *decision, or that the attending physician has determined that the*  
39 *individual is not a qualified individual.*

1 (d) The consulting physician's diagnosis and prognosis, and  
2 verification that the qualified individual has the capacity to make  
3 medical decisions, is acting voluntarily, and has made an informed  
4 decision, or that the consulting physician has determined that the  
5 individual is not a qualified individual.

6 (e) A report of the outcome and determinations made during a  
7 mental health specialist's assessment, if performed.

8 (f) The attending physician's offer to the qualified individual  
9 to withdraw or rescind his or her request at the time of the  
10 individual's second oral request.

11 (g) A note by the attending physician indicating that all  
12 requirements under Sections 443.5 and 443.6 have been met and  
13 indicating the steps taken to carry out the request, including a  
14 notation of the aid-in-dying drug prescribed.

15 443.8. A qualified individual may not receive a prescription  
16 for ~~aid-in-dying medication~~ an aid-in-dying drug pursuant to this  
17 part, part unless he or she has made an informed decision.  
18 Immediately before writing a prescription for ~~aid-in-dying~~  
19 ~~medication~~ an aid-in-dying drug under this part, the attending  
20 physician shall verify that the individual is making an informed  
21 decision.

22 443.9. (a) A request for ~~aid-in-dying medication~~ an  
23 aid-in-dying drug as authorized by this part shall be in substantially  
24 the following form:

25  
26 REQUEST FOR ~~MEDICATION~~ AN AID-IN-DYING DRUG TO END MY  
27 LIFE IN A HUMANE AND DIGNIFIED MANNER I,  
28 ....., am an adult of sound mind and a resident  
29 of the State of California.

30 I am suffering from ....., which my attending physician has determined  
31 is in its terminal phase and which has been medically confirmed.

32 I have been fully informed of my diagnosis and prognosis, the nature of the  
33 aid-in-dying ~~medication~~ drug to be prescribed and potential associated risks,  
34 the expected result, and the feasible alternatives or additional treatment  
35 ~~opportunities~~, options, including comfort care, hospice care, palliative care,  
36 and pain control.

37 I request that my attending physician prescribe ~~medication~~ an aid-in-dying  
38 drug that will end my life in a humane and dignified manner if I choose to take  
39 it, and I authorize my attending physician to contact any pharmacist about my  
40 request.

INITIAL ONE:

..... I have informed one or more members of my family of my decision and taken their opinions into consideration.

..... I have decided not to inform my family of my decision.

..... I have no family to inform of my decision.

I understand that I have the right to *withdraw or* rescind this request at any time.

I understand the full import of this request and I expect to die if I take the aid-in-dying-~~medication~~ *drug* to be prescribed. My attending physician has counseled me about the possibility that my death may not be immediately upon the consumption of the ~~medication~~ *drug*.

I make this request voluntarily, without reservation, and without being coerced.

Signed:.....

Dated:.....

DECLARATION OF WITNESSES

We declare that the person signing this request:

(a) is personally known to us or has provided proof of identity;

(b) signed this request in our presence;

(c) is an individual whom we believe to be of sound mind and not under duress, fraud, or undue influence; and

(d) is not an individual for whom either of us is the attending-~~physician~~ *physician, consulting physician, or mental health specialist*.

.....Witness 1/Date

.....Witness 2/Date

NOTE: Only one of the two witnesses may be a relative (by blood, marriage, *registered domestic partnership*, or adoption) of the person signing this request or be entitled to a portion of the person's estate upon death. Only one of the two witnesses may own, operate, or be employed at a health care facility where the person is a patient or resident.

(b) (1) The written language of the request shall be written in the same translated language as any conversations, consultations, or interpreted conversations or consultations between a patient and his or her attending or consulting physicians.

(2) Notwithstanding paragraph (1), the written request may be prepared in English even-~~where~~ *when* the conversations or consultations or interpreted conversations or consultations-~~where~~

1 *were* conducted in a language other than English if the English  
2 language form includes an attached interpreter’s declaration that  
3 is signed under penalty of perjury. The interpreter’s declaration  
4 shall state words to the effect that:

5  
6 I (INSERT NAME OF INTERPRETER), am fluent in English and (INSERT  
7 TARGET LANGUAGE).

8 On (insert date) at approximately (insert time), I read the “Request for  
9 ~~Medication~~ *an Aid-In-Dying Drug to End My Life*” to (insert name of  
10 individual/patient) in (insert target language).

11 Mr./Ms. (insert name of patient/qualified individual) affirmed to me that he/she  
12 understood the content of this form and affirmed his/her desire to sign this  
13 form under his/her own power and volition and that the request to sign the  
14 form followed consultations with an attending and consulting physician.

15 I declare that I am fluent in English and (insert target language) and further  
16 declare under penalty of perjury that the foregoing is true and correct.

17 Executed at (insert city, county, and state) on this (insert day of month) of  
18 (insert month), (insert year).

19 X\_\_\_\_\_Interpreter signature

20 X\_\_\_\_\_Interpreter printed name

21 X\_\_\_\_\_Interpreter address

22  
23 (3) An interpreter *whose services are provided by pursuant to*  
24 paragraph (2) shall not be related to the qualified individual by  
25 blood, marriage, *registered domestic partnership*, or adoption or  
26 be entitled to a portion of the person’s estate upon death. An  
27 interpreter *whose services are provided by pursuant to* paragraph  
28 (2) shall meet the standards promulgated by the California  
29 Healthcare-Interpreters *Interpreting* Association or the National  
30 Council on Interpreting in Health Care or other standards deemed  
31 acceptable *by the department* for health care providers in  
32 California.

33 443.10. (a) A provision in a contract, will, or other ~~agreement,~~  
34 *agreement executed on or after January 1, 2016*, whether written  
35 or oral, to the extent the provision would affect whether a person  
36 may ~~make~~ *make, withdraw, or rescind a request for aid-in-dying*  
37 ~~medication, an aid-in-dying drug~~ is not valid.

38 (b) An obligation owing under any contract ~~in effect~~ *executed*  
39 on or after January 1, 2016, may not be conditioned or affected by

1 a qualified individual ~~making~~ *making, withdrawing, or rescinding*  
2 a request for ~~aid-in-dying medication~~ *an aid-in-dying drug*.

3 443.11. (a) The sale, procurement, or issuance of a life, health,  
4 or accident insurance or annuity policy, health care service plan  
5 contract, or health benefit plan, or the rate charged for a policy or  
6 plan contract may not be conditioned upon or affected by a person  
7 making or rescinding a request for ~~aid-in-dying medication~~ *an*  
8 *aid-in-dying drug*.

9 (b) Notwithstanding any other law, a qualified individual's act  
10 of self-administering ~~aid-in-dying medication~~ *an aid-in-dying drug*  
11 may not have an effect upon a life, health, or accident insurance  
12 or annuity policy other than that of a natural death from the  
13 underlying disease.

14 (c) An insurance carrier shall not provide any information in  
15 communications made to an individual about the availability of  
16 ~~aid-in-dying medication~~ *an aid-in-dying drug* absent a request by  
17 the individual, his or her attending physician at the behest of the  
18 individual, or the individual's designee. Any communication shall  
19 not include both the denial of treatment and information as to the  
20 availability of ~~aid-in-dying medication~~ *drug* coverage. For the  
21 purposes of this subdivision, "insurance carrier" means a health  
22 care service plan ~~pursuant to as defined in Section 1345 of this~~  
23 ~~code or a health insurer pursuant to carrier of health insurance as~~  
24 ~~defined in Section 106 of the Insurance Code.~~

25 443.12. (a) Notwithstanding any other law, a person shall not  
26 be subject to ~~civil or criminal~~ *civil, criminal, administrative,*  
27 *employment, or contractual* liability or professional disciplinary  
28 action for participating in good faith compliance with this part,  
29 including an individual who is present when a qualified individual  
30 self-administers the prescribed ~~aid-in-dying medication~~ *drug*.

31 (b) A health care provider or professional organization or  
32 association shall not subject an individual to censure, discipline,  
33 suspension, loss of license, loss of privileges, loss of membership,  
34 or other penalty for participating in good faith compliance with  
35 this part or for refusing to participate in accordance with  
36 subdivision ~~(d)~~ *(e)*.

37 (c) *Notwithstanding any other law, a health care provider shall*  
38 *not be subject to civil, criminal, administrative, disciplinary,*  
39 *employment, credentialing, professional discipline, contractual*  
40 *liability, or medical staff action, sanction, or penalty or other*

1 *liability for participating in this part, including, but not limited*  
2 *to, determining the diagnosis or prognosis of an individual,*  
3 *determining the capacity of an individual for purposes of qualifying*  
4 *for the act, providing information to an individual regarding this*  
5 *part, and providing a referral to a physician who participates in*  
6 *this part.*

7 ~~(e)~~

8 (d) (1) A request by a qualified individual to an attending  
9 physician to provide ~~aid-in-dying medication~~ *an aid-in-dying drug*  
10 in good faith compliance with the provisions of this part shall not  
11 provide the sole basis for the appointment of a guardian or  
12 conservator.

13 (2) ~~A request by an individual to a pharmacist to dispense~~  
14 ~~aid-in-dying medication in good faith~~ *No actions taken in*  
15 compliance with the provisions of this part shall ~~not~~ constitute *or*  
16 *provide the basis for any claim of* neglect or elder abuse for any  
17 purpose of law.

18 ~~(d)~~

19 (e) (1) Participation in activities authorized pursuant to this  
20 part shall be voluntary. A person or entity that elects, for reasons  
21 of conscience, morality, or ethics, not to engage in activities  
22 authorized pursuant to this part is not required to take any action  
23 in support of a patient's decision under this part, except as required  
24 by Sections 442 ~~through~~ *to* 442.7, inclusive.

25 (2) If a health care provider is unable or unwilling to carry out  
26 a qualified individual's request under this part and the qualified  
27 individual transfers care to a new health care provider, ~~the prior~~  
28 ~~health care provider shall transfer, upon request, a copy of the~~  
29 ~~qualified individual's relevant medical records to the new health~~  
30 ~~care provider.~~ *the individual may request a copy of his or her*  
31 *medical records pursuant to law.*

32 (e) (1) ~~Subject to paragraph (2), notwithstanding any other law,~~  
33 ~~a health care provider may prohibit its employees, independent~~  
34 ~~contractors, or other persons or entities, including other health care~~  
35 ~~providers, from participating in activities under this part while on~~  
36 ~~premises owned or under the management or direct control of that~~  
37 ~~prohibiting health care provider or while acting within the course~~  
38 ~~and scope of any employment by, or contract with, the prohibiting~~  
39 ~~health care provider.~~



1     ~~(2) A health care provider that elects to prohibit its employees,~~  
2     ~~independent contractors, or other persons or entities, including~~  
3     ~~health care providers, from participating in activities under this~~  
4     ~~part, as described in paragraph (1), shall first give notice of the~~  
5     ~~policy prohibiting participation in this part to the individual or~~  
6     ~~entity. A health care provider that fails to provide notice to an~~  
7     ~~individual or entity in compliance with this paragraph shall not be~~  
8     ~~entitled to enforce such a policy against that individual or entity.~~

9     ~~(3) Subject to compliance with paragraph (2), the prohibiting~~  
10    ~~health care provider may take action, including, but not limited~~  
11    ~~to, the following, as applicable, against any individual or entity~~  
12    ~~that violates this policy:~~

13    ~~(A) Loss of privileges, loss of membership, or other action~~  
14    ~~authorized by the bylaws or rules and regulations of the medical~~  
15    ~~staff.~~

16    ~~(B) Suspension, loss of employment, or other action authorized~~  
17    ~~by the policies and practices of the prohibiting health care provider.~~

18    ~~(C) Termination of any lease or other contract between the~~  
19    ~~prohibiting health care provider and the individual or entity that~~  
20    ~~violates the policy.~~

21    ~~(D) Imposition of any other nonmonetary remedy provided for~~  
22    ~~in any lease or contract between the prohibiting health care provider~~  
23    ~~and the individual or entity in violation of the policy.~~

24    ~~(4) Nothing in this subdivision shall be construed to prevent,~~  
25    ~~or to allow a prohibiting health care provider to prohibit any other~~  
26    ~~health care provider, employee, independent contractor, or other~~  
27    ~~person or entity from any of the following:~~

28    ~~(A) Participating, or entering into an agreement to participate,~~  
29    ~~in activities under this part, while on premises that are not owned~~  
30    ~~or under the management or direct control of the prohibiting~~  
31    ~~provider or while acting outside the course and scope of the~~  
32    ~~participant's duties as an employee of, or an independent contractor~~  
33    ~~for, the prohibiting health care provider.~~

34    ~~(B) Participating, or entering into an agreement to participate,~~  
35    ~~in activities under this part as an attending physician or consulting~~  
36    ~~physician while on premises that are not owned or under the~~  
37    ~~management or direct control of the prohibiting provider.~~

38    ~~(5) In taking actions pursuant to paragraph (3), a health care~~  
39    ~~provider shall comply with all procedures required by law, its own~~

~~1 policies or procedures, and any contract with the individual or  
2 entity in violation of the policy, as applicable.~~

~~3 (6) For purposes of this subdivision:~~

~~4 (A) “Notice” means a separate statement in writing advising of  
5 the prohibiting health care provider policy with respect to  
6 participating in activities under this part.~~

~~7 (B) “Participating, or entering into an agreement to participate,  
8 in activities under this part” means doing or entering into an  
9 agreement to do any one or more of the following:~~

~~10 (i) Performing the duties of an attending physician specified in  
11 Section 443.5.~~

~~12 (ii) Performing the duties of a consulting physician specified in  
13 Section 443.6.~~

~~14 (iii) Delivering the prescription for, dispensing, or delivering  
15 the dispensed aid-in-dying medication pursuant to paragraph (2)  
16 of subdivision (b) of, and subdivision (c) of, Section 443.5.~~

~~17 (iv) Being present when the qualified individual takes the  
18 aid-in-dying medication prescribed pursuant to this part.~~

~~19 (C) “Participating, or entering into an agreement to participate,  
20 in activities under this part” does not include doing, or entering  
21 into an agreement to do, any of the following:~~

~~22 (i) Making an initial determination that a patient has a terminal  
23 illness and informing the patient of the medical prognosis.~~

~~24 (ii) Providing information to a patient about the End of Life  
25 Option Act.~~

~~26 (iii) Providing a patient, upon the patient’s request, with a  
27 referral to another health care provider for the purposes of  
28 participating in the activities authorized by the End of Life Option  
29 Act.~~

~~30 (7) Any action taken by a prohibiting provider pursuant to this  
31 subdivision shall not be reportable under Sections 800 through  
32 809.9, inclusive, of the Business and Professions Code. The fact  
33 that a health care provider participates in activities under this part  
34 shall not be the sole basis for a complaint or report by another  
35 health care provider of unprofessional or dishonorable conduct  
36 under Sections 800 through 809.9, inclusive, of the Business and  
37 Professions Code.~~

~~38 (f) Nothing in this part shall prevent a health care provider from  
39 providing an individual with health care services that do not  
40 constitute participation in this part.~~

1     443.13. (a) Subject to subdivision (b), notwithstanding any  
2 other law, a health care provider may prohibit its employees,  
3 independent contractors, or other persons or entities, including  
4 other health care providers, from participating in activities under  
5 this part while on premises owned or under the management or  
6 direct control of that prohibiting health care provider or while  
7 acting within the course and scope of any employment by, or  
8 contract with, the prohibiting health care provider.

9     (b) A health care provider that elects to prohibit its employees,  
10 independent contractors, or other persons or entities, including  
11 health care providers, from participating in activities under this  
12 part, as described in subdivision (a), shall first give notice of the  
13 policy prohibiting participation under this part to the individual  
14 or entity. A health care provider that fails to provide notice to an  
15 individual or entity in compliance with this subdivision shall not  
16 be entitled to enforce such a policy against that individual or entity.

17     (c) Subject to compliance with subdivision (b), the prohibiting  
18 health care provider may take action, including, but not limited  
19 to, the following, as applicable, against any individual or entity  
20 that violates this policy:

21     (1) Loss of privileges, loss of membership, or other action  
22 authorized by the bylaws or rules and regulations of the medical  
23 staff.

24     (2) Suspension, loss of employment, or other action authorized  
25 by the policies and practices of the prohibiting health care  
26 provider.

27     (3) Termination of any lease or other contract between the  
28 prohibiting health care provider and the individual or entity that  
29 violates the policy.

30     (4) Imposition of any other nonmonetary remedy provided for  
31 in any lease or contract between the prohibiting health care  
32 provider and the individual or entity in violation of the policy.

33     (d) Nothing in this section shall be construed to prevent, or to  
34 allow a prohibiting health care provider to prohibit any other  
35 health care provider, employee, independent contractor, or other  
36 person or entity from any of the following:

37     (1) Participating, or entering into an agreement to participate,  
38 in activities under this part, while on premises that are not owned  
39 or under the management or direct control of the prohibiting  
40 provider or while acting outside the course and scope of the

1 participant's duties as an employee of, or an independent  
2 contractor for, the prohibiting health care provider.

3 (2) Participating, or entering into an agreement to participate,  
4 in activities under this part as an attending physician or consulting  
5 physician while on premises that are not owned or under the  
6 management or direct control of the prohibiting provider.

7 (e) In taking actions pursuant to subdivision (c), a health care  
8 provider shall comply with all procedures required by law, its own  
9 policies or procedures, and any contract with the individual or  
10 entity in violation of the policy, as applicable.

11 (f) For purposes of this section:

12 (1) "Notice" means a separate statement in writing advising  
13 of the prohibiting health care provider policy with respect to  
14 participating in activities under this part.

15 (2) "Participating, or entering into an agreement to participate,  
16 in activities under this part" means doing or entering into an  
17 agreement to do any one or more of the following:

18 (A) Performing the duties of an attending physician as specified  
19 in Section 443.5.

20 (B) Performing the duties of a consulting physician as specified  
21 in Section 443.6.

22 (C) Performing the duties of a mental health specialist, in the  
23 circumstance that a referral to one is made.

24 (D) Delivering the prescription for, dispensing, or delivering  
25 the dispensed aid-in-dying drug pursuant to paragraph (2) of  
26 subdivision (b) of, and subdivision (c) of, Section 443.5.

27 (E) Being present when the qualified individual takes the  
28 aid-in-dying drug prescribed pursuant to this part.

29 (3) "Participating, or entering into an agreement to participate,  
30 in activities under this part" does not include doing, or entering  
31 into an agreement to do, any of the following:

32 (A) Diagnosing whether a patient has a terminal disease,  
33 informing the patient of the medical prognosis, or determining  
34 whether a patient has the capacity to make decisions.

35 (B) Providing information to a patient about this part.

36 (C) Providing a patient, upon the patient's request, with a  
37 referral to another health care provider for the purposes of  
38 participating in the activities authorized by this part.

39 (g) Any action taken by a prohibiting provider pursuant to this  
40 section shall not be reportable under Sections 800 to 809.9,

1 *inclusive, of the Business and Professions Code. The fact that a*  
2 *health care provider participates in activities under this part shall*  
3 *not be the sole basis for a complaint or report by another health*  
4 *care provider of unprofessional or dishonorable conduct under*  
5 *Sections 800 to 809.9, inclusive, of the Business and Professions*  
6 *Code.*

7 *(h) Nothing in this part shall prevent a health care provider*  
8 *from providing an individual with health care services that do not*  
9 *constitute participation in this part.*

10 ~~443.13.~~

11 ~~443.14.~~ (a) A health care provider may not be sanctioned for  
12 any of the following:

13 (1) Making an initial determination pursuant to the standard of  
14 care that an individual has a terminal disease and informing him  
15 or her of the medical prognosis.

16 (2) Providing information about the End of Life Option Act to  
17 a patient upon the request of the individual.

18 (3) Providing an individual, upon request, with a referral to  
19 another physician.

20 (b) A health care provider that prohibits activities under this  
21 part in accordance with ~~subdivision (c) of Section 443.12~~ *Section*  
22 ~~443.13~~ shall not sanction an individual health care provider for  
23 contracting with a qualified individual to engage in activities  
24 authorized by this part if the individual health care provider is  
25 acting outside of the course and scope of his or her capacity as an  
26 employee or independent contractor of the prohibiting health care  
27 provider.

28 (c) Notwithstanding any contrary provision in this section, the  
29 immunities and prohibitions on sanctions of a health care provider  
30 are solely reserved for actions taken pursuant to this ~~part~~ *part*, and  
31 those health care providers may be sanctioned for conduct and  
32 actions not included and provided for in this part if the conduct  
33 and actions do not comply with the standards and practices set  
34 forth by the Medical Board of California.

35 ~~443.14.~~

36 ~~443.15.~~ (a) Knowingly altering or forging a request for  
37 ~~aid-in-dying medication~~ *an aid-in-dying drug* to end an individual's  
38 life without his or her authorization or concealing or destroying a  
39 ~~withdrawal or rescission of a request for aid-in-dying medication~~

1 *an aid-in-dying drug* is punishable as a felony if the act is done  
2 with the intent or effect of causing the individual's death.

3 (b) Knowingly coercing or exerting undue influence on an  
4 individual to request ~~aid-in-dying medication~~ *an aid-in-dying drug*  
5 for the purpose of ending his or her life or to destroy a *withdrawal*  
6 or rescission of a request is punishable as a felony.

7 (c) For purposes of this section, "knowingly" has the meaning  
8 provided in Section 7 of the Penal Code.

9 (d) Nothing in this section shall be construed to limit civil  
10 liability.

11 (e) The penalties in this section do not preclude criminal  
12 penalties applicable under any law for conduct inconsistent with  
13 the provisions of this ~~part~~ *section*.

14 ~~443.15.~~

15 *443.16.* Nothing in this part may be construed to authorize a  
16 physician or any other person to end an individual's life by lethal  
17 injection, mercy killing, or active euthanasia. Actions taken in  
18 accordance with this part shall not, for any purposes, constitute  
19 suicide, assisted suicide, ~~mercy killing~~, homicide, or elder abuse  
20 under the law.

21 ~~443.16.~~

22 *443.17.* (a) The State Public Health Officer shall annually  
23 review a sample of records maintained pursuant to Section ~~443.19~~  
24 *443.7* and shall adopt regulations establishing additional reporting  
25 requirements for physicians and pharmacists pursuant to this part.

26 (b) The reporting requirements shall be designed to collect  
27 information to determine utilization and compliance with this part.  
28 The information collected shall be confidential and shall be  
29 collected in a manner that protects the privacy of the patient, the  
30 patient's family, and any medical provider or pharmacist involved  
31 with the patient under the provisions of this part.

32 (c) Based on the information collected, the department shall  
33 provide an annual compliance and utilization statistical report  
34 aggregated by age, gender, race, ethnicity, and primary language  
35 spoken at home and other data the department may determine  
36 relevant. The department shall make the report public within 30  
37 days of completion of each annual report.

38 (d) *The State Public Health Officer shall make available to*  
39 *health care providers the End of Life Option Act Checklist by*  
40 *posting it on its Internet Web site.*

1     ~~443.17.~~

2     443.18. A person who has custody or control of any unused  
3 aid-in-dying ~~medication~~ *drugs* prescribed pursuant to this part after  
4 the death of the patient shall personally deliver the unused  
5 aid-in-dying ~~medication~~ *drugs* for disposal by delivering it to the  
6 nearest qualified facility that properly disposes of controlled  
7 substances, or if none is available, shall dispose of it by lawful  
8 ~~means~~; *means in accordance with guidelines promulgated by the*  
9 *California State Board of Pharmacy or a federal Drug Enforcement*  
10 *Administration approved take back program.*

11    ~~443.18.~~

12    443.19. Any governmental entity that incurs costs resulting  
13 from a qualified individual terminating his or her life pursuant to  
14 the provisions of this part in a public place shall have a claim  
15 against the estate of the qualified individual to recover those costs  
16 and reasonable attorney fees related to enforcing the claim.

17    ~~443.19. All of the following shall be documented in the~~  
18 ~~individual's medical record:~~

19    ~~(a) All oral requests for aid-in-dying medication.~~

20    ~~(b) All written requests for aid-in-dying medication.~~

21    ~~(c) The attending physician's diagnosis and prognosis,~~  
22 ~~determination that a qualified individual is competent, acting~~  
23 ~~voluntarily, and has made an informed decision, or that the~~  
24 ~~attending physician has determined that the individual is not a~~  
25 ~~qualified individual.~~

26    ~~(d) The consulting physician's diagnosis and prognosis, and~~  
27 ~~verification that the qualified individual is competent, acting~~  
28 ~~voluntarily, and has made an informed decision, or that the~~  
29 ~~consulting physician has determined that the individual is not a~~  
30 ~~qualified individual.~~

31    ~~(e) A report of the outcome and determinations made during~~  
32 ~~counseling, if performed.~~

33    ~~(f) The attending physician's offer to the qualified individual~~  
34 ~~to rescind his or her request at the time of the qualified individual's~~  
35 ~~second oral request.~~

36    ~~(g) A note by the attending physician indicating that all~~  
37 ~~requirements under Sections 443.5 and 443.6 have been met and~~  
38 ~~indicating the steps taken to carry out the request, including a~~  
39 ~~notation of the aid-in-dying medication prescribed.~~

1 SEC. 2. The Legislature finds and declares that Section 1 of  
2 this act, which adds Section ~~443.16~~ 443.17 to the Health and Safety  
3 Code, imposes a limitation on the public's right of access to the  
4 meetings of public bodies or the writings of public officials and  
5 agencies within the meaning of Section 3 of Article I of the  
6 California Constitution. Pursuant to that constitutional provision,  
7 the Legislature makes the following findings to demonstrate the  
8 interest protected by this limitation and the need for protecting  
9 that interest:

10 (a) Any limitation to public access to personally identifiable  
11 patient data collected pursuant to Section ~~443.16~~ 443.17 of the  
12 Health and Safety Code as proposed to be added by this act is  
13 necessary to protect the privacy rights of the patient and his or her  
14 family.

15 (b) The interests in protecting the privacy rights of the patient  
16 and his or her family in this situation strongly outweigh the public  
17 interest in having access to personally identifiable data relating to  
18 services.

19 (c) The statistical report to be made available to the public  
20 pursuant to subdivision (c) of Section ~~443.16~~ 443.17 of the Health  
21 and Safety Code is sufficient to satisfy the public's right to access.

22 SEC. 3. The provisions of this part are severable. If any  
23 provision of this part or its application is held invalid, that  
24 invalidity shall not affect other provisions or applications that can  
25 be given effect without the invalid provision or application.

26 SEC. 4. No reimbursement is required by this act pursuant to  
27 Section 6 of Article XIII B of the California Constitution because  
28 the only costs that may be incurred by a local agency or school  
29 district will be incurred because this act creates a new crime or  
30 infraction, eliminates a crime or infraction, or changes the penalty  
31 for a crime or infraction, within the meaning of Section 17556 of  
32 the Government Code, or changes the definition of a crime within  
33 the meaning of Section 6 of Article XIII B of the California  
34 Constitution.